

RECOMMENDATIONS  
FOR REVISING THE PRIVATE  
POSTSECONDARY EDUCATION ACT  
OF 1977

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CALIFORNIA POSTSECONDARY  
EDUCATION COMMISSION



## Executive Summary

This report is the third in a series of related Commission reports on the subject of California State oversight of private postsecondary education. It offers a summary of the previous two reports -- *The State's Reliance on Non-Governmental Accreditation*, and *Protecting the Integrity of California Degrees* -- and concludes with a presentation of the goals that California should seek to accomplish in its oversight of private postsecondary education and recommendations about steps to accomplish these goals. It is organized into three parts as follows:

- Part One on pages 1-6 provides a brief description of California's private postsecondary educational enterprise and the licensure and oversight process used by the State for it.
- Part Two on pages 7-12 summarizes the major findings of the two earlier reports and the fundamental conclusions to be drawn from them.
- Part Three on pages 13-14 offers a policy framework for thinking about what the State should seek to accomplish through oversight of private postsecondary education and concludes with eight recommendations to the Governor and the Legislature about changes in the law to accomplish these goals, including abolition of the current Council for Private Postsecondary Educational Institutions and its replacement with a regulatory body to provide the leadership, planning, and oversight needed to maintain and develop a strong private sector of California's postsecondary education community.

The Commission adopted this report at its meeting on April 17, 1989, on recommendation of its Policy Evaluation Committee. Additional copies of the report may be obtained from the Library of the Commission at (916) 322-8031. Questions about the substance of the report may be directed to Jane V. Wellman, the associate director of the Commission, at (916) 322-8017.

# RECOMMENDATIONS FOR REVISING THE PRIVATE POSTSECONDARY EDUCATION ACT OF 1977

*A Report to the Legislature and Governor  
on Needed Improvements in State Oversight  
of Privately Supported Postsecondary Education*

**CALIFORNIA POSTSECONDARY EDUCATION COMMISSION**  
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THIS report is the last in a series of three related Commission reports on the subject of California State oversight of private postsecondary education

The previous two reports *The State's Reliance on Non-Governmental Accreditation* (March 1989), and *Protecting the Integrity of California Degrees* (April 1989), -- were prepared in response to legislation that directed the Commission to review and comment on the State's oversight of private postsecondary education, both in its reliance on non-governmental accreditation and in the administration of the 1977 Private Postsecondary Education Act

This third report builds on the findings of the previous two, offers summary conclusions from them, and concludes with a presentation of the goals that California should seek to accomplish in its oversight of private postsecondary education and recommendations about steps to accomplish these goals. It is organized into three parts as follows

- This part provides a brief description of California's private postsecondary educational enterprise and the licensure and oversight process used by the State for it
- Part Two summarizes the major findings of the two previous reports and the fundamental conclusions to be drawn from them
- Part Three offers a policy framework for thinking about what the State should seek to accomplish through oversight of private postsecondary education and concludes with eight recommendations to the Governor and the Legislature about changes in the law to accomplish these goals

### **The landscape of private postsecondary education**

California's private postsecondary educational enterprise is a large, complex, and diverse part of postsecondary education. It is also substantially separate in governance, oversight, and State regu-

lation from the rest of the postsecondary educational community, as it is the only component of postsecondary education to remain under the aegis of the State Superintendent of Public Instruction, whereas the other postsecondary education sectors have their own independent governing and regulatory boards

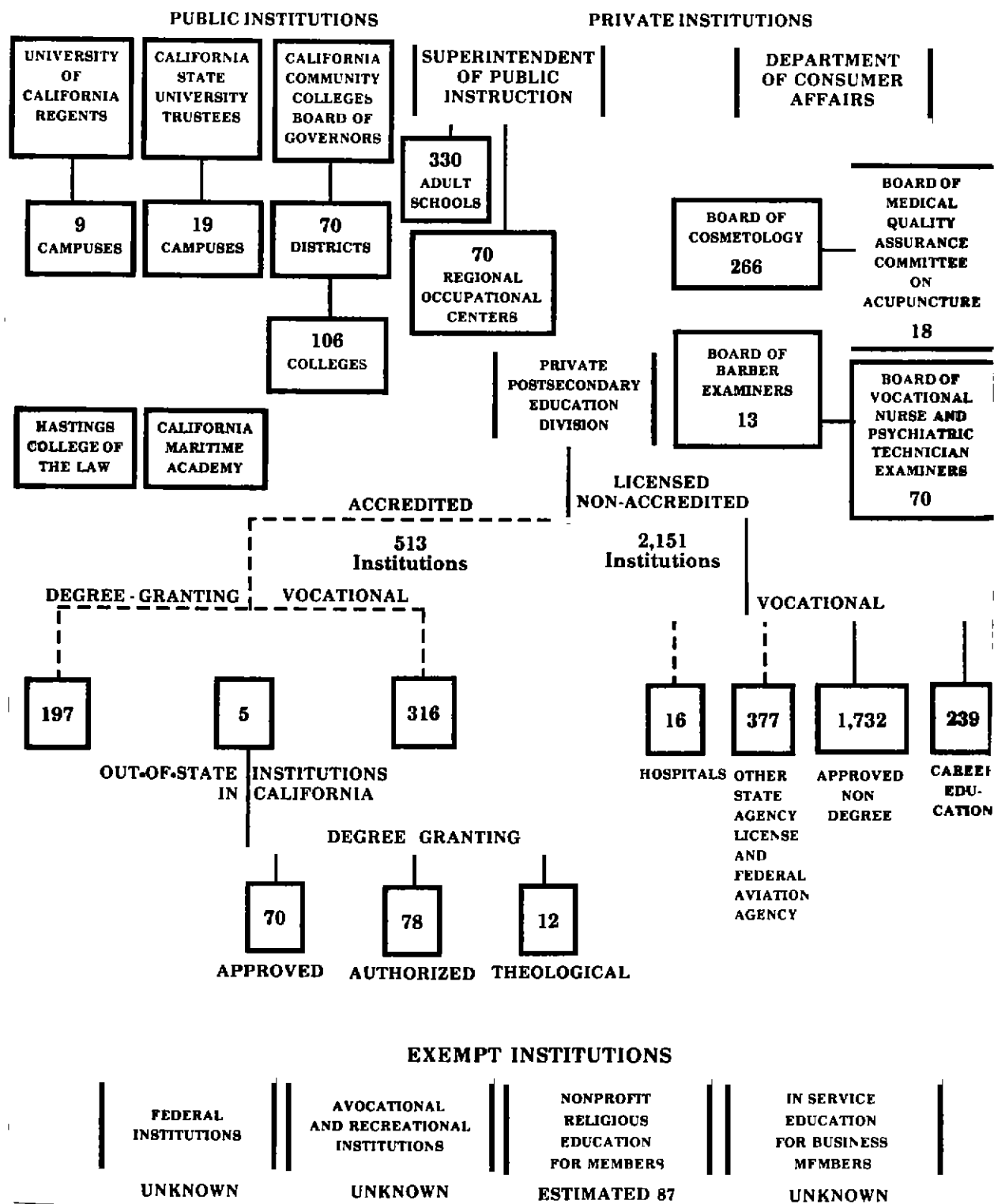
### *Size and scope*

It is estimated that approximately 3,000 privately supported institutions of postsecondary education are currently operating in California. This number far exceeds that of publicly supported institutions (of which there are 536, including regional occupational centers and adult schools), although larger numbers of students are educated in public institutions. Public degree granting institutions enroll over 1.5 million students alone -- the majority of them in community colleges. Data on enrollment in privately supported institutions is scattered and incomplete, since California requires only public institutions to report these facts annually, but nearly a million students probably attend private vocational schools, and a much smaller number attend degree-granting institutions. This means that the private postsecondary sector is second only in size to the community colleges.

### *Diversity of institutions*

Within the private sector, there is an enormous diversity of types of institutions, degrees, and educational offerings, as well as of students served. The institutions range from regionally accredited degree-granting non-profit institutions such as those in the Association of Independent California Colleges and Universities (AICCU), and accredited non-degree granting vocational institutions that resemble the adult vocational education component of the community colleges, to the non-accredited sector with its extensive range of job-oriented certificate and diploma programs. Display 1 on page 2 depicts the organization of State oversight of private post-

DISPLAY 1 State Oversight of Postsecondary Education Institutions in California



Source Adapted from California Postsecondary Education Commission, March 1989, p 2



secondary education and shows the configuration of institutional types that fall into each category. The following paragraphs attempt to explain what the terms in that display mean.

### **Different types of private postsecondary education institutions**

The law governing private postsecondary education in California is complex and its provisions somewhat confusing -- both within the educational community and outside of it. Under the Private Postsecondary Education Act of 1977, all private institutions must be authorized or licensed to operate by the State unless they are specifically exempted from its provisions. (Both the terms *authorized* and *license* are used in the law, but *license* is not defined.) The State agency responsible for this authorization or licensure in most cases is the Private Postsecondary Education Division in the State Department of Education. Unlike some states that merely "register" institutions without ever evaluating them, California requires a review and continued oversight as a condition of authorization.

The different forms of review form the basis for six different categories of degree-granting institutions and four categories of vocational schools, as follows:

#### ***Degree-granting institutions***

**1 *Accredited in-state institutions*** California-based institutions that are accredited by agencies recognized by the U.S. Secretary of Education are accepted without further review or oversight if they file with the Private Postsecondary Education Division an annual affidavit certifying their accreditation.

**2 *Out-of-state accredited institutions*** California does not rely on accreditation in lieu of State licensure review for accredited institutions that operate in the State but are headquartered out of state. For these institutions, the law requires that the Private Postsecondary Education Division conduct a licensure review that is based on standards employed by the nation's six regional accrediting associations.

**3 *Approved institutions*** Under the law, non-accredited institutions can have either of two statuses -- *approved* or *authorized*. An institution that is *approved* by the State has to meet standards for curricula and student achievement that are "comparable" to accreditation. State "approval" is generally considered to be a step toward achieving non-governmental accreditation and in fact is a requirement for institutions seeking accreditation by the Western Association of Schools and Colleges -- California's regional accrediting association -- but California does not require that an institution must evolve from approved to accredited status. The Superintendent of Public Instruction may award approval for a maximum of three years. Institutions that do not meet standards for full approval may receive candidate status for a period not to exceed two years, and they may renew this status only one time.

**4 *Authorized colleges and universities*** Since 1984, colleges and universities that are *authorized* by the State must meet standards that include all of the following:

- Institutional objectives,
- Administrative methods,
- Curriculum,
- Instruction,
- Faculty, including their qualifications,
- Physical facilities,
- Administrative personnel,
- Procedures for keeping educational records,
- Tuition, fee and refund schedules,
- Admissions standards,
- Scholastic and graduation requirements,
- Degrees offered, and
- Financial stability.

**5 *Authorized schools of theology*** Prior to 1984, authorized institutions had to prove only that the documents they submitted for review were truthful and accurate, including a statement that they had assets of at least \$50,000 available for the purposes of education. Today, only schools of theology may be authorized if they meet that standard and if

The Superintendent of Public Instruction grants authorization to colleges, universities, and schools of theology for five-year periods, and the law allows institutions to operate with "conditional" authorization for periods of between one and five years. If the Superintendent finds that an institution fails to meet a standard for authorization, he must put the institution on probation and identify what its defects are and what specific steps it needs to take to eliminate the problem. Institutions that fail to meet the conditions for removal of probation can have their authorization removed.

**6 Religiously exempt institutions** Institutions may declare themselves to offer instruction exclusively in areas of religion and thus exempt themselves completely from State licensure upon application to do so.

#### *Private vocational schools*

The more than 1,800 private non-degree granting vocational institutions in California are licensed to operate under one of four different categories:

**1 Private teaching hospitals** These hospitals are licensed to award diplomas under the provision of the Health and Safety Code, with the State Department of Education having no monitoring responsibilities for them.

**2 Licensed vocational schools** Approximately 400 institutions are currently licensed and monitored by governmental agencies other than the State Department of Education. Selected private schools, such as cosmetology and barber colleges, are licensed by professional boards in the State Department of Consumer Affairs, while flight instruction schools are licensed by the Federal Aviation Administration.

**3 Accredited institutions** Accreditation by national accrediting associations recognized by the U.S. Secretary of Education -- such as the National Association of Trade and Technical Schools (NATTS) and the Association of Independent Schools and Colleges (AISC) -- allows approximately 325 vocational schools to operate without State oversight and review except in the most extreme circum-

stances when, because of legislation enacted in 1988, the Private Postsecondary Education Division may investigate and, in certain circumstances, lift their license.

**4 Approved institutions** Non-accredited vocational institutions are approved by the Private Postsecondary Education Division if the institutions comply with several minimum criteria, most of which are not related to the quality and content of the educational program. Provisional approval status may be granted for one year, and may not be extended beyond that year. If the Division does not act within 30 days of receipt of the institution's application, the institution receives provisional approval automatically.

#### **The State's licensure and review process**

When a degree-granting postsecondary institution wishes to operate in the State of California, it must determine the aegis under which it chooses to do so: whether it will seek accreditation from a recognized accrediting agency, be licensed to operate by the State, or claim a religious exemption. If it chooses to submit an application for State licensure, the application must show whether it is applying to be authorized or approved and be accompanied by a check covering the costs of the application process.

The State's review processes for approved and authorized degree-granting institutions is similar, although the standards used in the process differ as noted above. The process involves the Private Postsecondary Education Division sending a team to visit the applicant institution, examine it in light of those standards, and recommend whether or not it should be authorized or approved to grant degrees. The director of the Division then reviews the recommendation of the visiting team and, in the case of a unanimous recommendation for or against, submits the application to the Superintendent of Public Instruction for final authorization or approval. In case of a disagreement among the visiting team, the director forwards the materials to the Council for Private Postsecondary Educational Institutions -- an advisory body to the Superinten-

team, the director forwards the materials to the Council for Private Postsecondary Educational Institutions -- an advisory body to the Superintendent -- for review and recommendation to the Superintendent

Approved vocational schools are visited and reviewed by a representative of the Division, and if the Division does not take action on the application within 30 days of the visit, the school automatically receives a full approval. Specialized career-oriented institutions that fall under the jurisdiction of the Department of Consumer Affairs are reviewed for oversight by their respective boards: barber schools by the Board of Barber Examiners, schools of cosmetology by the Board of Cosmetology, schools of acupuncture by the Board of Medical Quality Assurance, and schools training vocational nurses and psychiatric technicians by the Board of Vocational Nurses and Psychiatric Technicians. In all of these instances, the standards and conditions for institutional review and oversight are set by these boards. Once they have certified that the institutions have been satisfactorily reviewed, institutional licenses to operate are issued by the Private Postsecondary Education Division.

## **Funding and organization of State review**

### *The Private Postsecondary Education Division*

The Veterans Administration of the federal government supplies funds to the states to review federally reimbursable education for members of the armed forces, veterans, and their dependents, and California has assigned this oversight task to two agencies -- the Department of Industrial Relations for apprenticeships, and the Private Postsecondary Education Division for training courses. The Division's process of reviewing these courses is essentially separate from its process of reviewing institutions for licensure, but the licensure process benefits from the Division's federal support because the State of California, unlike other states, puts no General Fund support into the oversight or licensure of private postsecondary education.

The Division is funded exclusively from its Veterans Administration contract and from fees collected from private institutions. In 1988-89, these sources

combined to provide a total of \$1.9 million in funding, of which over \$1 million came from the federal government and \$894,000 came from institutional fees. These federal and institutional funds pay for 33 authorized positions in the Division, which is organized as shown in Display 2 on page 6.

### *The Council for Private Postsecondary Educational Institutions*

The Council for Private Postsecondary Educational Institutions was created in 1972 to provide "leadership and direction in the continuing development of private postsecondary education as an integral and effective element in the structure of postsecondary education in California." It has 15 voting members -- four of them appointed by the Superintendent of Public Instruction, five by the Senate Rules Committee and the Assembly Speaker -- plus the Superintendent or his designee. The Council also has three non-voting ex-officio members: the directors or their designees of three related State agencies -- the Departments of Consumer Affairs, Employment Development, and the Postsecondary Education Commission.

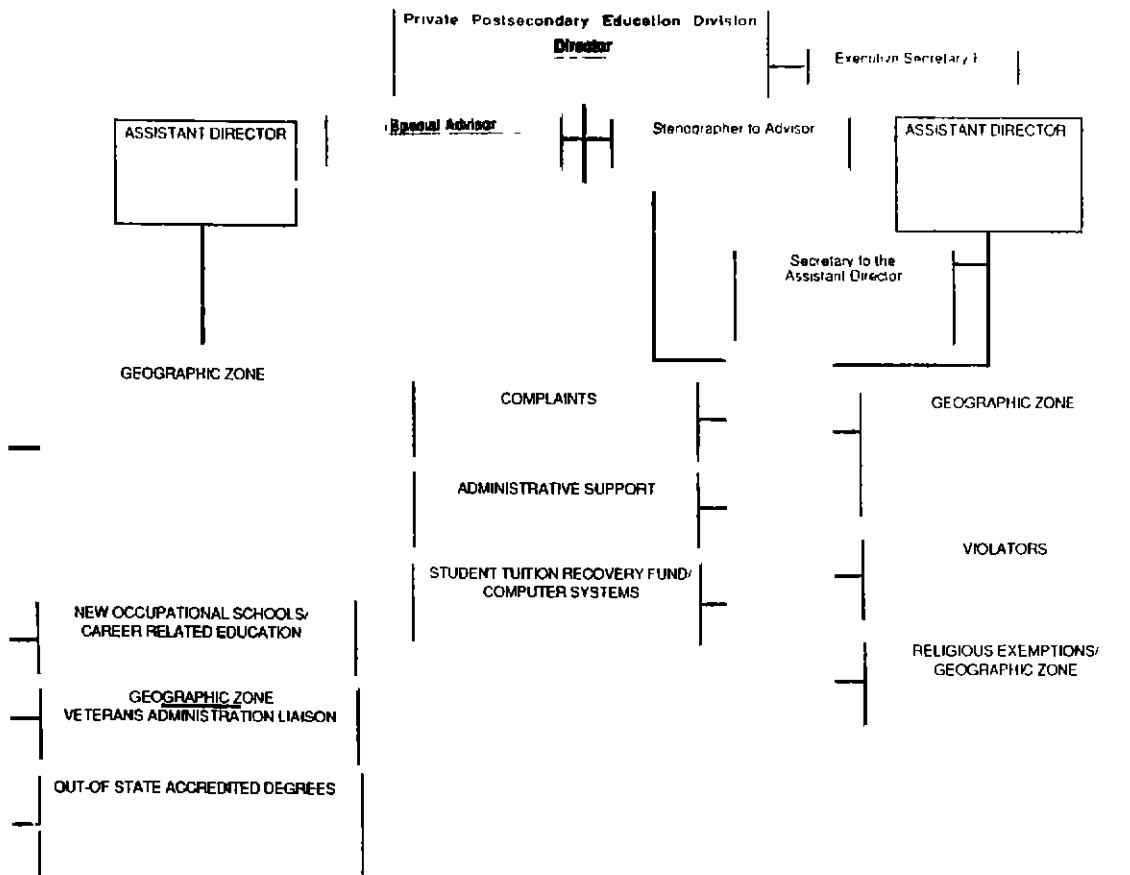
According to the Private Postsecondary Education Act, the Council's work "shall at all times be directed toward maintaining and continuing, to the maximum extent possible, private control and autonomy in the administration of private postsecondary schools and colleges in this State." The Council is advisory to the Superintendent in most matters and has statutory authority only over increases in institutional licensure fees.

Staff for the Council are provided by the Director of the Division from within the Division, but because of the Division's staffing shortages, the Council has not always had full-time staff made available to it.

### *Other State agencies*

State agencies other than the Division and the Council are also involved in the process of oversight, review, and licensure of private postsecondary education. Outside of the Department of Consumer Affairs, which has oversight responsibility for many of the professions, general policy oversight is scattered among many agencies.

**DISPLAY 2** *Organization of the Private Postsecondary Education Division, July 1988*



**Source** Adapted from California Postsecondary Education Commission, April 1989, p 41

Chief among these agencies is the Postsecondary Education Commission, which participates in the implementation of the law by being obligated to name one staff person to participate in each site visit to authorized institutions and which has statutory responsibility to review the effectiveness and implementation of the law

The Student Aid Commission also becomes involved in these matters, as it has statutory responsi-

ty for the State's management of all student aid programs, including the federal guaranteed student loan program as well as to notify the Division of any private institutions that are subject to its actions in limiting or suspending their eligibility under the Guaranteed Student Loan Program

Finally, the Attorney General's Office is involved in two ways -- in complaint investigations and in the handling of licensure appeals

## 2 Findings of the Commission's Two Previous Reports

IN RECENT months, the Commission has published two reports responding to legislative requests regarding California's oversight of private postsecondary education -- *The State's Reliance on Non-Governmental Accreditation* (March 1989) and *Protecting the Integrity of California Degrees* (April 1989)

### California's reliance on accreditation

In the first report, the Commission reviewed the State of California's use of accreditation in lieu of direct State oversight as a condition of State authorization to offer instruction. It found that the State relies on accreditation to accomplish three basic purposes

- 1 Maintain a standard of quality, probity and stability among accredited institutions that is at least equivalent to the State's oversight standards,
- 2 Determine eligibility for federal and State student aid in cooperation with the United States Department of Education, and

- 3 Provide a qualitative filter for individuals applying to take professional licensing examinations

Nine different accrediting agencies review and accredit institutions in California and collectively accredit some 820 institutions (Display 3, below)

The accreditation process is essentially a process of peer evaluation, which the Commission has historically found to be deserving of State encouragement and support. However, while the State has in general been well served by its reliance on accreditation, total reliance on the process for purposes of institutional authorization weakens the capacity of the State to set and maintain minimum standards for accredited institutions. The reason is the considerable unevenness among the different accrediting associations in terms of their procedures for review, frequency of review, definition of standards, requirements regarding financial information, and minimum definitions of educational quality. Although the rigor and extent of most accrediting reviews seems perfectly adequate, this is not always the case, and the current law makes no allowance for selective judgments by the State of when the accrediting process meets minimum State standards

**DISPLAY 3** *Institutional Accrediting Agencies Operating in California and Number of California's Private Institutions Accredited by Them*

Accrediting Agency	Degree Granting	Non-Degree Granting
Accrediting Commission for Senior Colleges and Universities, WASC	102	0
Accrediting Commission for Community and Junior Colleges, WASC	23	0
American Association of Bible Colleges (AABC)	6	0
Accrediting Council for Continuing Education and Training (ACCET)	0	160
Association of Independent Schools and Colleges (AICS)	12	45
Council on Chiropractic Education (CCE)	5	0
National Accrediting Commission of Cosmetology Arts and Sciences (NACCAS)	0	230
National Association of Trade and Technical Schools (NATTS)	20	203
National Home Study Council (NHSC)	2	12

Source: Adapted from Display 10, California Postsecondary Education Commission, March 1989, p. 27

or when some additional review would be appropriate

For example, three of the nine accrediting agencies operating in California do not require that institutions supply audited financial statements for review prior to initial accreditation. This is of particular concern to the State because such reviews give some systematic insight into the financial stability of these institutions. Since accredited institutions are eligible to participate in State and federal student aid programs, their financial stability is important to government student aid officials.

Considerable variation also exists among accrediting agencies in the definition of what they require for a degree and in whether they expect institutions to meet State standards for authorization or licensure. In addition, the State has no mechanism for collecting statistical information from accredited institutions (for example, on programs and courses offered, student enrollments, and degrees awarded) to assist in State planning. This impedes the ability of State policy makers to know what students are being served by these institutions, at what cost, and with what results.

Thus the Commission concluded that the State had to some extent relinquished its responsibility for oversight to the accreditation process, and that some reversing of this policy was in order. In the report, it provided two guidelines for State policy with regard to how to accomplish this:

- 1 In the oversight of private postsecondary institutions in California, the State should retain the responsibility for ensuring compliance with its minimum quality standards and consumer protection laws.
- 2 The State should rely on individual accrediting agencies for purposes of protecting the consumer and maintaining the integrity of degrees and other awards on a case-by-case basis as determined by the appropriate State agency. Such reliance should be found appropriate only when an accrediting agency can demonstrate that its standards and procedures substantially cover the standards and consumer protection requirements in the State's licensing laws and these are rigorously enforced. This decision to rely on an accrediting

agency for this purpose should be subject to periodic evaluation by a responsible agency of the State (1989a, p. 4).

### **Protecting the integrity of California degrees**

The second Commission report focused on the effectiveness of California's current law regulating private colleges and universities -- the Private Postsecondary Education Act of 1977, as amended -- in protecting the integrity of their degrees. This law sunsets on January 1, 1992, and the Legislature directed the Commission to review its adequacy and its implementation in anticipation of that sunset.

In that report, the Commission provided a detailed chronicle of the origins of the law, including amendments made over the past five years that were designed to strengthen State oversight of private postsecondary education by (1) requiring that all previously authorized institutions be re-reviewed to ensure their compliance with new educational standards, (2) including language implying that "approval" is comparable to accreditation, and (3) revising the State's review process for out-of-state accredited institutions. The Commission found that these recent changes in the law have improved State oversight considerably. In 1984, there were 209 unaccredited but State-authorized institutions operating in California, but by the end of 1987, this number had dropped to 90. Although it is not possible to know definitively what happened to the remaining 119 because data on them are so limited, it appears that at least 48 of them either closed or moved out of State because of the strengthened law. Of these, 15 were denied reauthorization. The rest either did not apply for reauthorization because of the stricter standards, withdrew their applications during the reauthorization process, moved to "approved" status, or filed as authorized schools of theology.

Despite this improvement in authorization standards, two weaknesses remain that have prevented the law from accomplishing its goal of protecting the integrity of California's degrees and diplomas: (1) remaining inadequacies in the law itself, and (2) failures in its implementation.

## *Deficiencies in the law*

Four defects in the law are of particular concern

- 1 The different categories or layers of institutional status in the law are confusing to educators and the public alike. Its distinction between "approval" and "authorization" is particularly obtuse, its combination of two entirely different forms of recognition -- one for colleges and universities and the other for theological schools -- under the single label of "authorization" is misleading, and the meaning of "licensure" in relation to approval and authorization is murky. For both approved and authorized institutions, no clear distinction exists between their minimum educational standards that can separate them unequivocally. The category of "religiously exempt" institutions permits self-proclaimed religious institutions to award degrees unless the State challenges them in the courts. And no category exists for new institutions to begin operation under "candidate" or "provisional" status.
- 2 A second problem with the law is the way it is funded. No State resources at all are committed to the oversight, licensure, and policy review of private postsecondary education. To enforce the law, the Private Postsecondary Education Division of the State Department of Education must rely exclusively on fees from the application and renewal process for approved and authorized institutions, supplemented with federal funds for its course approval activities on behalf of the Veterans Administration. While some problems in implementing the law are not causally linked to inadequate resources, there can be no doubt that additional staff resources to do the job would be of considerable help.
- 3 The law contains a structural problem restricting the oversight and regulation of private postsecondary education by confining its community of interest to those individuals affiliated with private institutions -- and for the most part, proprietary or profit-making ones. The sole exception to this policy has been the involvement of the regionally accredited, degree-granting non-profit sector in State policy and planning for postsecondary education. This isolation of the rest of the "industry" -- as it has labeled itself --

has been exacerbated by the location of the Private Postsecondary Education Division within the Department of Education, away from postsecondary educational peers. The Council for Private Postsecondary Education, already weakened because it is a policy rather than a regulatory body, is also structured to maintain the isolation from the rest of postsecondary education. Issues such as improving the definition and application of quality standards, getting qualified individuals on review teams, and ultimately improving the articulation of the entire sector into all aspects of postsecondary education will not be solved if this isolation is maintained.

- 4 The law has inadequate enforcement provisions whereby institutions that have failed to meet its standards may continue to operate almost indefinitely while they appeal.

## *Problems in implementing the law*

- 1 The Private Postsecondary Education Division has been unable to implement the provisions of the law effectively and on time, as evidenced by the fact that the regulations have yet to be adopted implementing the 1984 amendments to strengthen the authorization process for non-accredited institutions and the licensure process for out-of-state accredited institutions. Its focus on the in-state authorization and approval process has also meant delays in implementing the new standards for licensing out-of-state accredited institutions.
- 2 The standards for authorization and approval have been applied unevenly by individual staff of the Division, caused in part because of inadequate staff training and also by very high workload requirements attributable to inadequate funding for staff resources. The size of the Division's staff is probably too small to do the job well under any circumstance, but this problem has been exacerbated by the fact that most staff do not have background or adequate training in the field of postsecondary management or quality control.
- 3 Because of its reliance on institutional fees, the Division has faced problems in regulating institutions while simultaneously providing techni-

cal assistance to them. Implementation of the 1984 amendments has forced the staff to spend a great deal of time on the process of re-authorizing institutions, and because of the newness of the law and the lack of regulations, much of this time has been spent in helping institutions get through the application process. Questions exist as to whether it is appropriate for the same staff who are providing this consultation to also be in the position of reviewing and making judgments about the quality of these institutions' applications.

- 4 The Division lacks time or staff to collate statistical information from institutions into adequate trend reports on their number, type, and size, their enrollments and graduates by program area, and their instructional and administrative staff. As a result, State policy makers lack information about the private postsecondary enterprise with which to draw definitive conclusions and make informed planning and policy judgments affecting it.
- 3 Finally, the Council for Private Postsecondary Educational Institutions has had a mixed history of helping implement the law. First created as a policy body in 1972, the Council has evolved from initially being a promoter of the private postsecondary educational industry to having a majority of members interested in strengthening its regulation. Whether the same body can simultaneously promote and regulate any business or industry remains an open question, but the chief dilemma of the Council seems to be that -- regardless of its direction or focus -- it remains merely advisory to the Superintendent of Public Instruction. The only area where it has decision-making responsibility is in the area of approving licensure fees. In 1986, it disapproved the Division's request to increase fees in order to hire more staff, although it has recently approved a fee increase to hire one half-time attorney to help reduce the legal backlog of the Division. Overall, the work of the Division has not been helped by the Council, which has not participated as it could have in the larger postsecondary educational community with respect to policy, planning, and oversight.

## Conclusions

In its two previous reports, the Commission has found evidence of a rich variety of private postsecondary educational institutions in California. With the demands that exist among the population of so large a state for all kinds of postsecondary education, the legitimate educational needs of Californians will never be able to be met through the public sector alone. Some components of the private sector have missions similar to those of public institutions, but the majority of them offer programs that differ in intended scope and depth from those available in the public sector. As the State moves to the year 2000, the enrollment demands that will be put on the entire postsecondary educational apparatus will be such that all of the resources available -- public and private -- will have to be efficiently and effectively utilized.

The private sector also provides an avenue for institutional and curriculum innovation that enriches the educational opportunities of California's students. Although the Private Postsecondary Education Act has succeeded in encouraging innovation and experimentation through private postsecondary education, it is not clear that it has achieved its goal of protecting the quality of education offered to students throughout the private sector. The institutions that maintain the highest standards of educational quality appear to be those that are regionally accredited and largely non-profit. The State can lay no claim for responsibility for the quality of these institutions, since their standards are developed and enforced through a non-governmental peer process rather than through State regulation or oversight. It is less clear that all of the institutions that are licensed by the State meet reasonable standards of quality. Some non-accredited degree-granting institutions remain a particular concern to the State, and problems exist among some accredited vocational schools -- raising questions about the wisdom of the State's total reliance on accreditation in lieu of direct review and regulation.

This excessive reliance on accreditation can be solved by giving the State the ability to be selective in when to rely on accreditation. But more extensive change will be needed to overcome the inadequacies of the law and its implementation in pro-



tecting the quality of California education. These inadequacies have perpetuated California's reputation as being a haven for low-quality private institutions, despite recent improvements in the law and despite the number of excellent private institutions operating in the State.

This issue of reputation involves both fact and perception. The factual problems are evidenced by the number of school closures, high student loan default rates, inadequate or nonexistent student counseling, poor job placement records, the inability of students to get courses accepted for credit outside of the institutions, and completely inadequate institutional record keeping. For degree-granting

institutions, an additional issue is the acceptance by the State of degrees from unqualified institutions as a condition of licensure, thus exposing the public to ill-prepared professionals.

The problems of perception are equally as bad, given the widespread and persistent sense that neither State regulation nor the peer review process of some accrediting agencies protects quality among all privately supported institutions. So long as these negative perceptions persist -- regardless of their fundamental accuracy -- it is the students and the quality institutions serving them who will be shortchanged.

# 3

## *A Policy Framework for State Oversight of Private Postsecondary Education*

MUCH has been accomplished by the State of California in the past five years to improve its oversight of private postsecondary education. Much more remains to be done, however. In this final section of the report, the Commission offers five State policy goals and eight recommendations to the Legislature as a framework for improving State oversight of private postsecondary education.

### **State policy goals**

The following policy goals emanate from the findings and conclusions of the Commission's recent reports on State oversight of private institutions and form the basis for its subsequent recommendations on changes in the Private Postsecondary Education Act.

1. State law should be as simply written and clear as possible, both to aid in its enforcement and for the benefit of students, employers, and the public.
2. State law should be clear about the purpose of State oversight of private postsecondary education. The major goal of oversight should be to ensure minimum standards of instructional quality and institutional stability for all students in all types of institutions. A secondary goal should be to ensure integration of the private postsecondary educational community into all aspects of State policy and planning for postsecondary education.
3. State law should be clear about the meaning of licensure. A license should mean that the State has determined and certifies that an institution meets at least minimum standards of integrity, financial stability, and educational quality – including the offering of bona fide instruction by qualified faculty and the appropriate assess-

ment of students' achievement prior to, during, and at the end of their program.

4. The law should recognize and support non-governmental accreditation, while not ceding to that or any other non-governmental process all responsibility for State oversight for purposes of licensure if the accreditation process fails to protect minimum standards of quality. As a result, California should not seek to obtain recognition by the United States Secretary of Education of its State licensure process as comparable to accreditation.
5. The law should be administered by individuals who are part of the postsecondary educational community, supported by and building on a peer review process that integrates experience and perspective from public as well as private postsecondary education.

### **Recommendations**

Because of the complexity of the problems and because human and financial resources are not going to be available in the quantity that could simultaneously solve all of them, the Commission believes that amendments to the law should focus on these eight areas of priority concern.

1. **The Council for Private Postsecondary Educational Institutions should be abolished and replaced with a policy body that is regulatory rather than advisory and is structured to include members of the entire postsecondary educational community. This body should be charged with the responsibility of developing policies and procedures for the oversight and licensure of private postsecondary education, including the responsibility for managing a broadly con-**

strued policy and planning process that seeks to improve State accountability for private postsecondary education as well as to improve the articulation of private postsecondary education with the general postsecondary educational community. This new body should provide the leadership and planning needed to maintain and develop a strong private sector of this community.

2. The Private Postsecondary Education Division within the State Department of Education should be eliminated. Its oversight and licensure functions should be carried out instead by postsecondary educational specialists who are familiar with postsecondary educational management and quality control as well as with both academic and vocational and non-profit and proprietary education.
3. The law should be amended to give the new regulatory body the capacity to make selective judgments about the basis on which accreditation will be used for state licensure review.
4. The law should initially focus the State's review and oversight functions on accredited vocational schools and on degree-granting non-accredited institutions. The law should specifically exempt non-profit regionally accredited degree-granting institutions from the provisions of State review. However, the new regulatory board should prepare a review of the integrity of the regional accreditation processes as compared to the effectiveness of the State licensure process, with recommendations to the Governor and Legislature on the appropriateness of this exemption. This should be prepared by December 1997 to coincide with the recommended five-year sunset for the law.
5. The categories of "approved" and "authorized" institutions should be abolished and replaced with a single category of "licensed" institution. A candidacy period for new schools should be established, and the new board should be given the responsibility for writing the minimum standards for meeting this initial status. Institutions should be allowed to remain on probationary status for no more than two years, by which time they either should be fully licensed or closed.
6. The State licensure process should be sufficiently rigorous, detailed, and frequent to achieve the Legislature's intention to protect the integrity of degrees and diplomas by private institutions. Language in the law implying the "comparability" of State approval to accreditation should be eliminated, and the law should contain minimum standards of quality, including evidence of bona fide instruction through student-faculty interaction, as well as a definition of what constitutes a degree.
7. The new regulatory board should have adequate legal and administrative staff to expedite the development and promulgation of regulations as well as the handling of student and institutional appeals. The law should include language clearly delineating the basis on which appeals will be accepted to ensure reasonable institutional access to redress grievances while expediting the appeals process and discouraging dilatory action.
8. State resources necessary to support the operation of the Board and its staff should be provided as a supplement to institutional fees and Veterans Administration funds.

# Bibliography

*Note* This bibliography lists all of the Commission's reports that deal with State oversight of privately supported postsecondary education

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-- *The Challenges Ahead A Planning Agenda for California Postsecondary Education, 1982-1987* Commission Report 81-25 Sacramento The Commission, November 1981

-- *Commission Comments on Proposed Standards for Authorization of Private Postsecondary Educational Institutions A Review for the Legislature of the Report of the Special Committee of the Council for Private Postsecondary Educational Institutions Pursuant to Section 94304.5 of the Education Code*

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-- *Public Policy, Accreditation, and State Approval in California State Reliance on Non-Governmental Accrediting Agencies and on State Recognition of Postsecondary Institutions to Serve the Public Interest* Commission Report 84-28 Sacramento The Commission, July 1984

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-- *The State's Reliance on Non-Governmental Accreditation A Report to the Legislature in Response to Assembly Concurrent Resolution 78 (Resolution Chapter 22, 1988)* Commission Report 89-13 Sacramento The Commission, March 1989

-- *Protecting the Integrity of California Degrees The Role of California's Private Postsecondary Education Act of 1977 in Educational Quality Control* Commission Report 89-17 Sacramento The Commission, April 1989

# CALIFORNIA POSTSECONDARY EDUCATION COMMISSION

THE California Postsecondary Education Commission is a citizen board established in 1974 by the Legislature and Governor to coordinate the efforts of California's colleges and universities and to provide independent, non-partisan policy analysis and recommendations to the Governor and Legislature

## Members of the Commission

The Commission consists of 15 members. Nine represent the general public, with three each appointed for six-year terms by the Governor, the Senate Rules Committee, and the Speaker of the Assembly. The other six represent the major segments of postsecondary education in California.

As of April 1989, the Commissioners representing the general public are

Mim Andelson, Los Angeles,  
C. Thomas Dean, Long Beach,  
Henry Der, San Francisco,  
Seymour M. Farber, M.D., San Francisco,  
Helen Z. Hansen, Long Beach,  
Lowell J. Paige, El Macero, *Vice Chair*,  
Cruz Reynoso, Los Angeles,  
Sharon N. Skog, Palo Alto, *Chair*, and  
Stephen P. Teale, M.D., Modesto

Representatives of the segments are

Yori Wada, San Francisco, appointed by the Regents of the University of California,

Theodore J. Saenger, San Francisco, appointed by the Trustees of the California State University,

John F. Parkhurst, Folsom, appointed by the Board of Governors of the California Community Colleges,

Harry Wugalter, Thousand Oaks, appointed by the Council for Private Postsecondary Educational Institutions,

Francis Laufenberg, Orange, appointed by the California State Board of Education, and

James B. Jamieson, San Luis Obispo, appointed by the Governor from nominees proposed by California's independent colleges and universities

## Functions of the Commission

The Commission is charged by the Legislature and Governor to "assure the effective utilization of public postsecondary education resources, thereby eliminating waste and unnecessary duplication, and to promote diversity, innovation, and responsiveness to student and societal needs."

To this end, the Commission conducts independent reviews of matters affecting the 2,600 institutions of postsecondary education in California, including community colleges, four-year colleges, universities, and professional and occupational schools.

As an advisory planning and coordinating body, the Commission does not administer or govern any institutions, nor does it approve, authorize, or accredit any of them. Instead, it cooperates with other State agencies and non-governmental groups that perform these functions, while operating as an independent board with its own staff and its own specific duties of evaluation, coordination, and planning.

## Operation of the Commission

The Commission holds regular meetings throughout the year at which it debates and takes action on staff studies and takes positions on proposed legislation affecting education beyond the high school in California. By law, the Commission's meetings are open to the public. Requests to speak at a meeting may be made by writing the Commission in advance or by submitting a request prior to the start of the meeting.

The Commission's day-to-day work is carried out by its staff in Sacramento, under the guidance of its executive director, Kenneth B. O'Brien, who is appointed by the Commission.

The Commission publishes and distributes without charge some 40 to 50 reports each year on major issues confronting California postsecondary education. Recent reports are listed on the back cover.

Further information about the Commission, its meetings, its staff, and its publications may be obtained from the Commission offices at 1020 Twelfth Street, Third Floor, Sacramento, CA 95814-3985, telephone (916) 445-7933.

# RECOMMENDATIONS FOR REVISING THE PRIVATE POSTSECONDARY EDUCATION ACT OF 1977

## California Postsecondary Education Commission Report 89-18

ONE of a series of reports published by the Commission as part of its planning and coordinating responsibilities. Additional copies may be obtained without charge from the Publications Office, California Postsecondary Education Commission, Third Floor, 1020 Twelfth Street, Sacramento, California 95814-3985

Recent reports of the Commission include

**88-45** Prepaid College Tuition and Savings Bond Programs. A Staff Report to the California Postsecondary Education Commission (December 1988)

**89-1** Legislative Priorities for the Commission, 1989. A Report of the California Postsecondary Education Commission (January 1989)

**89-2** The Twentieth Campus. An Analysis of the California State University's Proposal to Establish a Full-Service Campus in the City of San Marcos in Northern San Diego County (January 1989)

**89-3** Toward Educational Equity. Progress in Implementing the Goals of Assembly Concurrent Resolution 83 of 1984. A Report to the Legislature in Response to Assembly Bill 101 (Chapter 574, Statutes of 1987) (January 1989)

**89-4** The Effectiveness of the Mathematics, Engineering, Science Achievement (MESA) Program's Administrative and Policy-Making Processes. A Report to the Legislature in Response to Assembly Bill 610 (1985) (January 1989)

**89-5** Comments on the Community Colleges' Study of Students with Learning Disabilities. A Report to the Legislature in Response to Supplemental Report Language to the 1988 State Budget Act (January 1989)

**89-6** Prospects for Accommodating Growth in Postsecondary Education to 2005. Report of the Executive Director to the California Postsecondary Education Commission, January 23, 1989 (January 1989)

**89-7** State Budget Priorities of the Commission, 1989. A Report of the California Postsecondary Education Commission (March 1989)

**89-8** Status Report on Human Corps Activities, 1989. The Second in a Series of Five Annual Reports to the Legislature in Response to Assembly Bill 1820 (Chapter 1245, Statutes of 1987) (March 1989)

**89-9** A Further Review of the California State University's Contra Costa Center (March 1989)

**89-10** Out of the Shadows -- The IRCA/SLIAG Opportunity. A Needs Assessment of Educational Services for Eligible Legalized Aliens in California Under the State Legalization Impact Assistance Grant Program of the Immigration Reform and Control Act of 1986, submitted to the California Postsecondary Education Commission, February 23, 1989, by California Tomorrow (March 1989)

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**89-16** Standardized Tests Used for Higher Education Admission and Placement in California During 1988. The Fourth in a Series of Annual Reports Published in Accordance with Senate Bill 1758 (Chapter 1505, Statutes of 1984) (April 1989)

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**89-19** Mandatory Statewide Student Fees in California's Public Four-Year Colleges and Universities. Report of the Sunset Review Committee on Statewide Student Fee Policy Under Senate Bill 195 (1985), published for the Committee by the California Postsecondary Education Commission (April 1989)